

Blame the worker or the workplace?

By Mike Clarke

A not-so-subtle shift by the Workers' Compensation Board (WCB) to change the "branding" of their work will lead to more workers refusing to report unsafe working conditions.

The WCB has shifted its focus from promoting "a safe workplace" to focus directly on workers' behaviour. This quiet shifting of responsibility to workers is unfair, since employees do not control the workplace or have decision-making authority to implement changes.

Why are we seeing a shift in responsibility? Workers are less likely to report injuries if they are more



Mike Clarke.

likely to be found at fault. Employers do not have to implement changes or modify work practises that put workers at an increased risk of injury.

A key problem with this approach is that it does not prevent accidents, only the reporting of accidents.

There are serious questions about the new "behaviour management system" being pushed by

See 'Blame' on next page...



BCGEU members take an occupational health and safety course at union headquarters.

Preventing exposure to flu virus at the workplace

Concerns about the coming flu season have been heightened this year by media coverage of the H1N1 flu virus. This virus stems from a respiratory disease originally associated with pigs, that has mutated into a strain affecting the general population.

The symptoms of H1N1

H1N1 symptoms are the same as for any other flu. Symptoms include fever, cough, and general aches and pains. Some people may experience a runny nose, sore throat, nausea, vomiting and diarrhea. This Fall, the H1N1 virus is expected to continue to circulate in and outside Canada.

On June 11th, the World Health Organization (WHO) designated the H1N1 outbreak as a pandemic—which only means the disease spreads easily and rapidly and is expected to affect

a large portion of the population. So far the pandemic has been moderate, meaning most people will recover without the need for hospitalization or any medical care.

The government has announced that the H1N1 vaccine would be made available to high-risk people first. Health care workers were to get the vaccine starting in early November. The H1N1 vaccine will be made available prior to the annual influenza vaccine. This is because preliminary data indicates that having a seasonal flu shot first could actually put people at increased risk of contracting H1N1.

What are employers required to do to prevent the spread of H1N1?

In BC, under the Occupational

Continued next page...



Health and Safety Regulation, employers are required to implement an exposure control plan where workers may be or are at risk of harmful contact with a biological agent. Employers have a responsibility to protect workers from work-related hazards including exposure to infectious disease such as influenza.

Employers should include the health and safety committee in developing exposure control plans

An exposure control plan must include:

- a statement of purpose and responsibilities
- identification of job tasks and workers who might be exposed to a risk
- identification of a process for controlling risk using the hierarchy of controls
- strategies to reduce the spread of disease among the workforce

- initiatives to ensure workers are trained and educated in any control measures
- measures to ensure that if personal protective equipment is used, workers are fitted for the equipment, are trained and tested on its use

Many BCGEU members work in areas where they are at an increased risk of exposure. This includes correctional officers, sheriffs, members dealing with the general public, those in health care, colleges, and community social services.

We all have responsibilities to prevent the spread of flu viruses:

- wash your hands
- avoid touching your eyes, nose and mouth
- avoid or minimize contact with infected people, stay away from crowds
- minimize group meetings, use e-mails, web based sessions, video or conference calls
- in meetings avoid close contact with others and ensure the meeting room is well ventilated
- limit unnecessary visitors to the workplace

If you are ill or have flu like symptoms:

- stay home
- cover your nose and mouth with a tissue when you sneeze
- Cough into your sleeve
- call health link at 8-1-1 if you have concerns; don't rush to the emergency room
- see a health care provider if your

symptoms become worse but call first to advise that you have a fever or cough

- find out what your employer's policies are on taking leave to care for an ill family member.

If your job is in health care, corrections, or any other occupation that can place you in close contact with sick people, or large numbers of people, find out what precautions that your employer has put in place.

What about vaccinations to prevent the spread of a virus at the workplace? Your employer is responsible for providing the vaccine at no cost to the worker if the hazard meets the provisions of section 6.39 of the workers' compensation regulation.

The BCGEU endorses vaccination programs as effective prevention measures particularly among those who work with the frail elderly. But the union does not support compulsory vaccination.

During an outbreak, employers should accommodate workers in other areas of the workplace. If workers are sent home during an outbreak, they should not in our view be penalized.

Any workers suffering from side effects of vaccination connected to their workplace, should file WCB claims or apply for medical leave coverage.

For further information on exposure control please visit the BCGEU website at www.bcgeu.c/flu_info.

'Blame the worker' con't...

the WCB. For example, workers are trained in body mechanics instead of ergonomics. Personal protective equipment becomes a substitute for chemical enclosure, ventilation and toxic use reduction.

If you are invited to participate in a behaviour-based management system, call your area office staff representative. The BCGEU is opposed to any system that blames workers and behaviour for workplace accidents.

Remember: Changing behaviour does not ensure that the workplace is safe.

Mike Clarke is a BCGEU vice-president and chairs the union's Occupational Health and Safety Committee.

Occupational Health and Safety Committee

Mike Clarke, Chairperson
 Craig MacKay, Vice-Chairperson (Local 503)
 Steve Lisik (103)
 Kim Keys (203)
 Patsy Harmston (309)
 Joanne Jordan (409)
 Sandy Terlecki (609)
 Stu Seifert (702)
 Mike Prystae (1009)

Barb Peters (1202)
 James Swank (1703)
 Dean Draper (2008)
 Cameron Gerard (304 - YW)
 Gerry Gault (GWU)
 David Clarabut (CEU)
 Maureen Darragh (BCFMWU)
 Mona Sykes, Secretary



Help prevent exposure to flu viruses in your workplace



Your best defence against any flu virus

Preventing flu virus:

- ✓ Wash your hands;
- ✓ Avoid touching your eyes, nose and mouth;
- ✓ Minimize contact with crowds and infected people;
- ✓ Minimize group meetings, use e-mail, web-based sessions, video or conference calls;
- ✓ In meetings, avoid close contact with others and ensure the meeting room is well ventilated;
- ✓ Limit unnecessary visitors to the workplace.



If you are ill or have flu symptoms:

- ✓ Stay home;
- ✓ Cover your nose and mouth with a tissue when you sneeze;
- ✓ Cough into your sleeve;
- ✓ Call "Health Link" at 8-1-1 if you have concerns; don't rush to the emergency room;
- ✓ See a health care provider if your symptoms become worse, but call first to advise that you have a fever or cough.



Workplace Bullying...

By Gayle Nye

Tired of insults, and ridicule in the workplace? Some schoolyard bullies never grew up –they've become the adult bullies in the workplace. And they're making us sick.

Workplace bullying is a serious threat to health and safety, an affront to dignity and rights and has long-term negative affects on the workforce. Workers' morale and productivity are affected when the workplace environment becomes unfriendly, unsafe and unsettling.

But, in BC there is no statute or provision under Workers' Compensation regulations or Occupational Health and Safety legislation.

While harassment and discrimination on the grounds of age, race, sex, sexual orientation or disability are prohibited under the BC Human Rights Code, workplace bullying is so far not identified as a form of discrimination.

Workplace bullying can be defined as behaviour that is a repeated, health-harming mistreatment of one



or more persons by one or more individuals. It can include verbal abuse,

threatening, humiliating or intimidating action and work interference – sabotage – which prevents work from getting done.

We understand that bullies need to control the individual they have deliberately targeted. Bullying in the workplace can escalate to involve others who voluntarily side with the bully, or are coerced to do so. Often bullying can continue to occur because colleagues are also too intimidated to speak up or to interfere.

The majority of bullies are in positions of authority - supervisors, managers and bosses-but bullying also occurs between colleagues. Research also suggests that women are the targets more often than men, and that women who bully also target other women.

Bullying can affect physical and mental health. A worker targeted by a bully will feel scared, stressed, anxious or depressed. They may experience symptoms of increased stress—headaches, backaches, insomnia. The effects on confidence and self-esteem may spread to

Organization and responsibilities of Occupational Health and Safety Committees

Do you require a joint occupational health and safety committee or health and safety representative?

A joint health and safety committee is required in workplaces with 20 or more employees who are regularly employed. Yes, this includes part-time workers. A worker health and safety representative is required where there are more than nine but fewer than 20 workers regularly employed. Check your collective agreement and Workers' Compensation Board (WCB) minimum standards.

Responsibility for ensuring committees and representatives are

in place:

It is the employer's responsibility to establish and maintain a joint occupational health and safety committee, or to make sure a worker health and safety representative is chosen.

When a committee is required, the employer and workers should determine the size of the committee - the minimum is four. At least half of the committee members should be worker representatives who do not exercise managerial functions. These members are selected by the BCGEU. The employer selects employer reps from persons who exercise managerial functions. The committee must

have two co-chairs, one selected by the worker reps and one selected by the employer reps.

What does a joint occupational health and safety committee do?

The function of the committee is to improve health and safety in the workplace. Representatives ensure health and safety hazards are identified, complaints are promptly dealt with, and the regulatory as well as contractual health and safety language is complied with. A worker rep also participates in workplace inspections, investigations (including accident investigations) and inquiries, as provided for un-

There ought to be a law!

other relationships at home and with friends. They will be less confident and productive at work, and absenteeism may increase.

When bullying goes unchecked in the workplace it can create a poisoned work environment where no one feels safe.

Who is responsible?

Employers have a responsibility to maintain a safe workplace environment and it is in their interest to prevent bullying. Managers must be held responsible for their own conduct and the overall respectful conduct and behaviour of employees at the workplace. They should be aware and respond immediately to any signs of bullying.

Existing Statutes

There is very little legislation covering bullying. In Canada the province of Quebec passed the first north American law against workplace bullying in June 2004. In 2007, Saskatchewan amended their Occupational Health and Safety Act to make harassment an actionable work haz-

ard if it adversely affects the worker's psychological or physical well-being. Ontario is in the process of including workplace bullying in their violence prevention regulation.

Other jurisdictions that have anti-bullying legislation include the State of South Australia in (August 2005), Sweden (1994), France (2002), and Britain (2001).

Here in BC we need to ensure regulations recognize bullying as a work hazard. workplace bullying should be actionable and compensable.

The BCGEU has made progress in specific agreements and through various labour management processes. We need to expand the language, and undertake a lot more education to make workers feel safe in standing up for their rights under the collective agreement. Increased education and heightened awareness can help change the workplace culture.

We should make Workplace Bullying a standing agenda item in joint labour management committees to prevent situations from continuing under the radar, and to raise awareness.

There is growing awareness and movement in our society about the issue of bullying—much of it school based. Community education programs are expanding, many towns have designated days and events like pink shirt days to call attention to the problem. Components within BCGEU like the General Services Component (17) and the Community Social Services Component (3) and others have been particularly energetic in campaigns among their own membership to raise awareness. As we tackle workplace bullying we protect our fundamental rights and build our union's solidarity. It's for our dignity and our safety.

Gayle Nye is a former BCGEU staff representative. This article is based on a presentation to a joint BC Government and Service Employees' Union and Compensation Employees' Union conference.

der Section 130 of the Occupational Health and Safety Regulations. Committees are responsible for making recommendations on how to improve health and safety in the workplace. This includes identifying situations that may be unhealthy or unsafe, such as violence in the workplace and ergonomic issues. The committee has numerous functions, which are clearly outlined in the Workers' Compensation Act.

Are workers entitled to training?

Employers are required by law to provide training for committee members or representatives. Each member of the joint committee is entitled to annual education leave totalling eight hours to attend occupational health and safety training. The employer must provide the leave at no loss of pay or other benefits, and must pay

for any costs associated with the training. Your collective agreement may provide additional training days.

Do worker reps get paid for their work on the committee?

Employees who are committee members or representatives are entitled to time off work with pay for their participation in occupational health and safety activities. Employers are required to pay the committee members or representatives at the same rate they would have been paid if they had been performing their regular jobs.

Employer obligation to support committee

The employer has a responsibility to ensure committee representatives, upon request, receive information regarding orders, penalties and pros-

ecutions relating to health and safety. Information relating to known or foreseeable health or safety hazards to which workers may be exposed must be made available. The employer is also responsible for providing the committee with equipment, premises and clerical personnel necessary for the carrying out of its duties and functions.

Employer must respond to committee recommendations

Management is allowed a 21-day time limit in which to respond to the occupational health and safety committee's recommendation. If the employer does not accept the recommendation of the committee it must supply the reasons in writing. A co-chair may report this matter to the WCB.

BCGEU, CEU, BCFMWU health and safety activists combine forces, compare strategies

Health and safety activists learning from each other was one of the goals of a March 2009 conference between the BCGEU and two affiliates, the Compensation Employees' Union (CEU) and the BC Ferry & Marine Workers' Union (BCFMWU).

Each union has a number of staff who specialize in these issues and the conference provided an opportunity for them to meet and discuss common issues.

"I am pleased we are continuing to foster our relationship with the CEU through events like this," said Darryl Walker, BCGEU president.

"This conference gives us the opportunity to build a stronger relationship with the BCGEU and its other affiliates," said Sandra Wright, CEU president.

The 80 delegates at the conference covered a host of topics including bullying in the workplace,

discrimination in legislation, young workers, and the Public Compensation Coalition (PCC).

CEU member Don MacFadgen, also gave a well-received presentation on health care exposure control plans.

The conference was organized by David Clarabut (CEU Director), Mike Clarke (BCGEU vice-president) and Mona Sykes (BCGEU Safety Officer). The conference was co-hosted by Clarabut and Clarke.



France considers new strict limit on asbestos exposure

According to the Montreal-based newspaper La Presse, France is considering tightening the exposure standard for asbestos, a carcinogenic substance. The current standard in France, as in England and the U.S., is 0.1 f/ml. It is 100 times more strict in the Netherlands, Germany and Switzerland (0.01 f/ml).

It is in this context that the French Agency for occupational and environmental health and security (Afsset) is recommending in a report this September, that the Sarkozy government significantly reduce its present exposure limit in law.

"Without further delay, France should lower its exposure level to 0.01 f/ml for all types of asbestos, in order to become one of the group of countries who are the most advanced in protecting workers," states the Agency.

"This represents a lowering of risk by a factor of 10," adds Afsset. "This standard can represent an important stage for France in its progress towards the reduction of risk from exposure to asbestos."

The public discussion of change in France increases the pressure on the Quebec government where asbestos is also mined. Quebec has refused for years to revise its own standard in spite of repeated calls from the National Public Health Institute of Quebec (INSPQ). During an eight-hour day, Quebec workers can be exposed to a maximum concentration of chrysotile asbestos of one fibre per millilitre of air (1 f/ml), according to the Occupational Health & Safety Commission's standard (CSST).

Dr. De Louise Guire, who deals with occupational respiratory illnesses at the INSPQ, points out the conclusions of Afsset confirm the correctness of long-standing recommendations from her organization. "No western country has a standard as undemanding as the one in Quebec," and the Institute has recommended to the Ministry of Health since 2003 to examine the need to revise the present standard for exposure. This goes in the direction that INSPQ recommended, which is to lower the exposure level in Quebec's present standard, she said.

Pierre Auger, occupational health specialist at Laval University agrees, saying, "This certainly calls for a revision of the Quebec standard, as the INSPQ has recommended."

In response, the Quebec Occupational Health and Safety Commission (CSST) has stated, "The technical parity committee, where the workers and employers are represented, has the mandate of fixing the priorities regarding eventual revisions. The standard for asbestos is not a priority in the short term."

Adapted From: Montreal LaPresse, September 29, 2009

**Check the BCGEU
web site for the latest
union news:
www.bcgeu.ca**

Discrimination under the Workers' Compensation Act

Section 5.1 of the Workers' Compensation Act establishes that a worker is entitled to compensation for mental stress only if they are suffering from an acute reaction to a sudden and unexpected traumatic event arising from their employment.

This may at first seem fair. However, the application of this section by the board and the Workers' Compensation Appeal Tribunal (WCAT) leaves much to be desired. Some of the WCAT decisions were reckless and have had an adverse effect on workers' right to fair compensation.

One WCAT decision (2008-02248) concerned the eligibility to compensation for a worker who suffered a sexual assault. The tribunal ruled that the workers' reaction to the assault was professional, and that because the worker did not describe a severe emotional shock, the response was not acute. WCAT denied the worker's claim.

Another decision (2008-01573) involved a teacher who suffered numerous threats from students – including threats to shoot the teacher and to burn down the classroom with the teacher in it. The worker was assessed by a psychologist and was diagnosed with an adjustment disorder that included severe anxiety and depression. The adjudicator accepted the claim.

However, the employer appealed to WCAT, which decided that elements of the claim fell outside the narrow grounds for mental stress claims. The tribunal decided that the events could not be described as traumatic, that they were part of a chain of events, and that the death threat did not stand alone as the cause of the disorder. The claim was denied.

In another case, a BC Court of Appeal judgment regarding Plesner v. British Columbia found Section 5.1 of the Act (the section used by the WCB to adopt Policy 13.30 regarding mental stress) to be discriminatory and contrary to section 15 (1) of

the Canadian Charter of Rights and Freedoms.

The decision states: "Mr. Plesner suffered post traumatic stress disorder (PTSD) as a result of the rupture of a natural gas pipeline at this workplace on January 16, 2003. There is no question that this injury arose out of and in the course of employment. If he had suffered a broken leg while running from the site of the rupture, he would have been compensated for his broken leg."

The judgement goes on to say, "I am satisfied that the requirement

"Section 5.1 of the Act remains discriminatory and still sets a higher test for a mental injury claim than for a physical injury."

of a "traumatic event" in s. 5.1(a) of the Act, when read together with Policy 13.30, breaches s.15(1) of the Charter by discriminating against Mr. Plesner and other workers like him who suffer from purely mental work-related injuries, on the basis of mental disability. Workers with purely mental injuries are forced to meet a significantly higher threshold for compensation which is not required of those who suffer work-related injuries that are purely physical, or who suffer mental injuries which are linked to physical work-related injuries."

The judgment resulted in the appeal being allowed, and that the provisions of Policy 13.30 highlighted at Schedule "A" would be severed and declared to be of no force and effect.

In July 2009, the WCB board of

directors approved changes to policy item 13.30, by deleting the policy statements and examples in accordance with the court's decision. They included a definition of a traumatic event as "an emotionally shocking event" and included a reference noting that an acute reaction may be delayed in certain circumstances.

The question remains, do these actions go far enough? Section 5.1 of the Act remains discriminatory and still sets a higher test for a mental injury claim than for a physical injury.

Stay tuned for more appeals.

Section 5.1

Section 5.1 of the Workers' Compensation Amendment Act establishes that only a worker will be entitled to compensation for mental stress only if the claim meets the following criteria.

(a) is an acute reaction to a sudden and unexpected traumatic event arising out of and in the course of the workers employment.

(b) Is diagnosed by a physician as a mental or physical condition that is described in the most recent American Psychiatric Association's diagnostic and statistical Manual of Mental Disorders, at the time of diagnosis, and

(c) is not caused by a decision of the workers employer relating to the workers employment including a decision the work to be performed or the working conditions, to discipline the worker to terminate the workers employment

Nanoparticles

While nanotechnology is relatively new, and not well known as far as occupational risk, there are more than 400 consumer products which include nanoparticles.

The European Agency for Safety and Health at Work (EASHW) looked at the issue and in "Workplace Exposures to Nanoparticles" says, "Nanomaterials possess new properties, and their industrial use creates new opportunities, but they also present new risks and uncertainties. Growing production and use of nanomaterials result in an increasing number of workers and consumers exposed to nanomaterials".

According to the EASHW, the following occupational groups provide a glimpse into the areas where this technology is currently being utilized:

-Construction; materials that improve wear resistance, rigidity, and also pigments, windows and insulation materials

-Health care: in new drugs including active agents, oral vaccines tissue, engineering and biocompatible materials.

-Energy conservation: new generation photovoltaic cell, more economical lighting, and combustion cells

-Automobile sector: reinforced and stronger materials, sensors optimising engine use, scratch resistant and dirt repellent coatings

-Chemical sector: catalysts, adhesives, bonding techniques, ceramics, self cleaning surfaces, anti static.

In your workplace you should request:

-An inventory that identifies nanoparticles in the workplace

-Tasks that contribute to a workers exposure including a description of exposure



-Prevention measures that should be implemented to eliminate exposure and where that is not possible to reduce any exposure to nanoparticles.

-That workers are trained in process and procedures related to nanoparticles

-Workers are advised of any use of nanotechnology in the workplace.

-An assessment of the risk of exposure

The right to refuse unsafe work

Section 3.12 of the Occupational Health and Safety Regulation defines what and when a worker can refuse unsafe work.

1. A worker or a person cannot carry out or cause to be carried out any work if that person has reasonable cause to believe that the work would create an undue hazard to the health and safety of any person.

2. If a worker is assigned any work that the worker believes would be hazardous to either their own safety or to the health and safety of others, the worker has the right to refuse the unsafe work.

3. A worker must follow the process for refusal of unsafe work.

a. The worker must immediately report the circumstances of the unsafe condition to the workers supervisor.

b. The supervisor must immediately investigate the

matter and can remedy the situation or if the supervisor believes the report is invalid must advise the worker.

c. If this is not resolved to the worker's satisfaction, in other words the hazard still exists, the worker can continue to refuse and a joint investigation will take place. The process is as follows:

i. The supervisor investigates the work with the worker and a worker who is on the health and safety committee or a worker chosen by the refusing worker's union.

Or

ii. If there is no committee and the worker does not belong to a union, then a worker chosen by the refusing worker.

d. If the worker still believes the work to be unsafe, then the supervisor and the worker must immediately notify a Board Officer. The number is 1-888-621-7233.

Occupational Safety & Health Program Course Description (offered by the OSH Department)

Public Sector (Two Day OSH) Open to all OSH Committee members in the public service.

One Day Violence Prevention Course (usually run in conjunction with the one-day Ergonomic course).

One-day Ergonomics Course (usually run back to back with the Violence Prevention course).

Registration for these courses is through the Public Service Agency "Learning Services" website.

All expenses are covered by the employer as per the Master Agreement. No lunch is ordered.

Members must register for each course separately.

Private Sector – Health Course – Three-Day OSH Course open to all OSH committee members.



The first two days is the basic OSH training specific to those members in Components 2, 3 and 4. The third day is Violence Prevention. If a request is made we can accommodate a two day training session.

Private Sector Course for Components 7, 10 and 17. Three-day OSH Course. Information as above.

Registration for these courses is conducted through the Area Office.

Quick facts...

In British Columbia:

- Three workers are killed on the job every week
- 14 workers are permanently disabled every day
- Young workers experience the most injuries
- Injury rates are increasing for health care workers
- Harassment, stress, and workplace violence contribute to occupational disease

BCGEU members have the right to:

Be informed of workplace hazards

- Receive quality health and safety training
- Refuse unsafe work
- Report hazardous conditions
- Participate in improving workplace health and safety



The **OHS Newsletter** is produced by the Research, Campaigns and Communications Department of the BCGEU. Contributors to this issue: Mike Clarke, Mona Sykes, Brian Gardiner, Chris Bradshaw.

Working in traffic control zones means you have to be prepared for high risk!

Traffic control persons (TCPs) in BC face many hazards, some life-threatening. From 2005 to 2008 15 TCPs were struck by motor vehicles that did not slow down in traffic control zones. Most of these incidents resulted in significant but not life-threatening injuries.

WorkSafeBC encourages all employers to provide protective systems and policies that exceed the minimum requirements set out in the Occupational Health and Safety Regulation in order to minimize the risk to TCPs.

Follow these precautions:

Use TCPs only in one of the following circumstances: when signs and other traffic control devices and procedures cannot provide effective traffic control, and when emergency or brief duration work makes it impractical to control traffic with signs and

other devices and procedures

- Plan and assess escape routes based on the traffic control layout but also on

the time needed to jump safely out of the way if a vehicle does not stop as directed.

- Assess the level of risk faced by the TCP in each situation. Consider traffic speed, direction, and volume as well as weather conditions and the time of day or night.



- Ensure that TCPs stand in a safe position, are clearly visible, and have an unobstructed view of approaching traffic. A safe position is usually on the side of the shoulder of the road, out of the way of vehicles.
- Ensure that TCPs are trained to the required standard and have current qualifications

Based on an information handout from the WCB.